

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:19-cr-00406-RK
	)	
(1) KAMEL MAHGUB ELBURKI,	)	
	)	
Defendant.	)	

**ORDER**

On October 27, 2022, Magistrate Judge W. Brian Gaddy issued a Report and Recommendation (Doc. 555) concluding that the Court should deny Defendant Kamel Mahgub Elburki's motion to suppress (Doc. 439). Defendant filed objections to the Report. (Doc. 557.)<sup>1</sup>

After careful and independent *de novo* review of the record, the applicable law, and the parties' arguments, the Court sustains Defendant's objection to the factual assertion that Defendant did not assert any ownership or possessory interest in items inside the vehicle that was subject to the December 19, 2018, traffic stop in Springfield, Missouri. (*See* Doc. 557 at 5, No. 14; *see* Tr. at 28 & 29.) Nonetheless, without a possessory or property interest in the vehicle itself, Defendant lacks Fourth Amendment standing to challenge the December 2018 traffic stop and subsequent search other than as to his own detention. *See United States v. Davis*, 943 F.3d 1129, 1132 (8th Cir. 2019). The Court agrees with Magistrate Judge Gaddy's findings of fact and conclusions of law in all other respects and accepts his recommendation. Accordingly, the Court **ORDERS** that:

- (1) the Report and Recommendation of Magistrate Judge Gaddy (Doc. 555) is **ADOPTED** subject to the factual modification as explained above;
- (2) Defendant's objections (Doc. 557) are **SUSTAINED** as to No. 14 and are otherwise **OVERRULED**; and
- (3) Defendant's motion to suppress (Doc. 439) is **DENIED**.

**IT IS SO ORDERED.**

s/ Roseann A. Ketchmark  
ROSEANN A. KETCHMARK, JUDGE  
UNITED STATES DISTRICT COURT

DATED: December 22, 2022

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<sup>1</sup> The Government submitted a filing indicating it has no objections to the Report. (Doc. 556.)